Before the
FEDERAL COMMUNICATONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	**WC Docket No. 03-225**
Request To Update Default	)	**RM No. 10568**
Compensation Rate for Dial-Around	)	
Calls from Payphones	)	

COMMENTS OF GLOBAL CROSSING NORTH AMERICA, INC.

Global Crossing North America, Inc. ("Global Crossing") submits these comments in response to the Commission's Notice initiating this proceeding.[1] In the Notice, the Commission seeks comment on the petitions for rulemaking filed by the American Public Communications Council ("APCC")[2] and the RBOC Coalition[3] seeking to more than double the existing default rate for payphone compensation. Both APCC and the RBOC Coalition point to falling call volumes as a justification for saddling interexchange carriers with this proposed massive increase in the payphone compensation rate.[4] Both blame the reduction in call volumes on the increased substitution of wireless calls for payphone calls.[5]

The proposed increase in the payphone compensation rate is both economically irrational and contrary to Congress' objectives embodied in section 276 of the Telecommunications Act – to ensure the widespread deployment of payphones and to

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1 *Request To Update Default Compensation Rate for Dial-Around Calls from Payphones,* WC Dkt. 03-225, Order and Notice of Proposed Rulemaking, FCC 03-265 (Oct. 23, 2003) ("Notice").

2 *Request that the Commission Issue a Notice of Proposed Rulemaking (or in the Alternative, Petition for Rulemaking) To Update Dial-Around Compensation Rate* (Aug. 29, 2002) ("APCC Petition").

3 *Petition for Rulemaking* (Sept. 4, 2002) ("RBOC Petition").

4 APCC Petition at 7-8; RBOC Petition at 1.

5 APCC Petition at 7; RBOC Petition at 1.

ensure that payphone service providers ("PSPs") are fairly compensated for calls made from their payphones.[6] As the Commission posits,[7] both APCC and the RBOC Coalition ignore basic economics by wholly failing to take into account demand responses to the proposed rate increases. Were the Commission to adopt these misguided proposals, the likely result would be that total revenues from payphones – and, hence, payphone deployment levels -- would fall even farther, thus defeating the stated purposes of APCC and the RBOC Coalition. The Commission should not countenance such an outcome.

When the Commission adopted its current per-call compensation rate,[8] it utilized a simplistic approach of dividing the costs of a marginal payphone by the average call volume from such a payphone. Both APCC and the RBOC Coalition ask that the Commission merely update the inputs to this model, without taking into account any real-world experience gleaned since the Commission first established a default compensation rate.[9] However, since the adoption of the Third Report and Order, new, but not unexpected facts, have come to light that would make blind reliance on the methodology set forth in the Third Report and Order patently unreasonable.

The Commission now has three years' experience in determining what happens to payphone call volumes and payphone deployment when the average cost of a payphone

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6 *See* 47 U.S.C. § 276.

Moreover, as the Commission has previously observed, "[s]ection 276 requires us to ensure that per-call compensation is fair, which implies fairness to both sides." *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996,* CC Dkt. 96-128, Fifth Order on Reconsideration and Order on Remand, 17 FCC Rcd. 21274, 21302, ¶ 82 (2002).

7 Notice, ¶ 28.

8 *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996,* CC Dkt. 96-128, Third Report and Order, and Order on Reconsideration of the Second Report and Order, 14 FCC Rcd. 2545 (1999) ("Third Report and Order")..

9 APCC Petition at 3; RBOC Coalition Petition at 5.

call is increased dramatically. Specifically, increasing the per-call rate from effectively zero to $0.24 per call caused volumes to decrease and total revenues from payphones and, hence, payphone deployment to decrease.[10]

This result should not be surprising for two reasons: (1) as the cost of a good increases, demand for the good decreases and, if demand is elastic, total revenues will also decrease in response to a price increase;[11] and (2) as the price of a good increases, other goods will be substituted for the good subject to the price increase.[12] Both factors strongly suggest that a massive increase in the default compensation rate would not produce the results projected by the PSPs.

APCC's own data serves to validate the first point.[13] APCC agrees that payphone costs have been relatively stable -- $107.32 per month compared to $101.29 per month (excluding the coin mechanism) utilized in the Third Report and Order.[14] The basis for the relief it seeks, however, is a "precipitous decline" in call volumes, from 439 to 234 per month.[15] Even taking the data supplied by APCC and the RBOC Coalition at face value, it provides no basis for more than doubling the per-call compensation rate.

When the Commission established the current per-call compensation rate, it found the following distribution of calls from a marginal payphone:

Type of Call	Volume	Distribution

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10 Indeed, this phenomenon forms the basis for the requests of APCC and the RBOC Coalition.

11 *See generally* W. Nicholson, *Microeconomic Theory: Basic Principles and Extensions* at 74-81, 99-101 (Dryden Press 1972) ("Nicholson").

12 Nicholson, *supra* at 81-86.

13 The data submitted by the RBOC Coalition does not differ materially from that submitted by APCC. Thus, for purposes of this discussion, the focus is on the APCC data.

14 APCC Petition at 13.

15 *Id.*

Coin Calls	270	61.2%
Dial-Around	142	32.4%
Other	26	6.6%
Total	439	100.0%[16]

The data on which APCC relies shows the following:

Type of Call	Volume	Distribution
Coin Calls	159	67.4%
Dial-Around	56	23.5%
Other	19	9.1%
Total	234	100.0%[17]

Thus, during the time that the Commission's current default compensation rate has been in effect, the only category of calls to experience an absolute decline in call volumes and a relative decline as a percentage of total calls from a marginal payphone was dial-around calls. Indeed, dial-around call volumes have decreased approximately 60% in absolute terms and close to one-third in relative terms. This result should be entirely expected, given the magnitude of the increase in the per-call compensation rate.

Similarly, coin call volumes have decreased in absolute terms, a result that is directly attributable to the increase in the generally-prevailing rate for calls from \$0.35 to \$0.50 per call.[18]

Total revenues from payphones the Commission necessarily anticipated when it established the current default compensation rate have not materialized, as demonstrated in the following table:

Type of Call	Call Volumes	Anticipated Revenues

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[16] Third Report and Order, ¶151 & nn. 302-306. The numbers are after rounding.

[17] APCC Petition, Att. 1 at D.5.6.

[18] RBOC Coalition Petition at 1-2.

Coin Calls	270	$ 94.50[19]
Dial-Around	142	$ 32.80[20]
Other	26	$ 13.50[21]

Practice, however, has not borne out the Commission's expectations, as APCC's own data demonstrates:

Type of Call	Call Volumes	Revenues
Coin Calls	159	$79.50[22]
Dial-Around	56	$12.94[23]
Other	19	$ 9.50[24]

Thus, of the expected $32.80 per call that the Commission's default per-call rate was expected to generate, only $12.94 was actually realized, leaving a deficit of almost $20 per phone per month. Basic economic theory suggests that the reason for this deficit is not that the Commission set the default per-call rate *too low*, but that it set the rate *too high*.

The data also strongly suggests what would happen if the Commission were to increase the default per-call rate to $0.48 or $0.49 per call. Specifically, one would expect that the volume of dial-around calls would decrease more than proportionately to the rate increase. As a result, the Commission could expect that total revenues realized from dial-around calls would decrease. This would cause total revenues from payphones

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19 270 calls time $0.35 per call. *See* Third Report and Order, ¶ 153.

20 142 calls time $0.231 per call. *See* Third Report and Order, *id.*

In this regard, the per-call rate selected was a "plug" rate. That is, the Commission established the per-call rate essentially to fill a revenue requirement. The Commission chose the rate necessary, all else being equal, to generate total revenues from a marginal payphone equal to total costs from a marginal payphone.

21 26 calls times $0.50 per call. *See* Third Report and Order, *id.*

22 159 calls time $0.50 per call.

23 56 calls time $0.231 per call.

24 19 calls time $0.50 per call.

and, hence, payphone deployment to fall.[25] Such a result is not consonant with the language of section 276.

Global Crossing presented this data in response to the APCC and RBOC Coalition petitions.[26] APCC and the RBOC Coalition all but ignore this evidence. Both suggest that the Commission has already adopted the marginal payphone methodology in the Third Report and Order and that the Commission may not, or at least should not, change that methodology.[27] However, blind adherence to a methodology that has plainly not worked in practice would constitute irrational decision-making. The marginal payphone methodology fails to take into account demand responses to rate increases. Accordingly, were the Commission simply to plug a number into the model to produce an arithmetic result, its action would be self-defeating. That is, the expected revenues from dial-around calls would not materialize because the number of dial-around calls expected would not be achieved, precisely because of the demand response to the proposed rate increase. The Commission simply cannot ignore this economic reality.

For its part, APCC suggests that price increases, in this case for local calls, has not caused a decrease in call volumes.[28] This assertion lacks merit. The data presented,

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25 Implicit in APCC's and the RBOC Coalition's pleas is the assumption that the Commission must attempt to maintain at least the current level of payphone deployment. Section 276 contains no such assumption. When section 276 encourages the widespread deployment of payphones, nowhere does the statute state that this objective could not be achieved at a lower level of payphone deployment.

26 *Request To Update the Default Compensation Rate for Dial-Around Calls from Payphones,* RM 10568, Comments of Global Crossing North America, Inc. at 3-6 (Oct. 30. 2002) ("Global Crossing Comments").

27 *Request To Update Default Compensation ate for Dial-Around Calls from Payphones,* RM 10568, Reply of the American Public Communications Council at 9 n.9 (Nov. 14, 2002) ("APCC Reply"); *Request for Rulemaking To Establish Revised Per-Call Compensation Rate,* RM 10568, Reply Comments in Support of Petition for Rulemaking at 1-2 (Nov. 14, 2002) ("RBOC Coalition Reply").

28 APCC Reply at 14.

together with basic economic theory, proves that the opposite, in fact, is true. Further price increases will only further erode demand for payphone services.[29]

The RBOC Coalition asserts that all would be well with the world if only the PSPs were able to recover a fair share of their costs from dial-around calls.[30] What the RBOC Coalition appears to posit is the existence of an upward-sloping demand curve. That is, the RBOC Coalition asserts that, were the Commission to increase the default dial-around rate, more marginal payphones would remain deployed.[31] This is simply an elegant way of claiming that demand would rise, or at least remain constant, if rates were increased. That position, of course, is completely counter to reality. More importantly, the RBOC Coalition does not, and cannot, contend that simply inserting a new rate into the marginal payphone model would produce the revenues necessary for the results it seeks. As demonstrated above, that result is unlikely in the extreme.

In addition, both APCC and the RBOC Coalition acknowledge that competition form wireless services have resulted in a decline in demand for dial-around calls.[32] The normal response that one would expect in a competitive market to the increased use of a substitute good is a decrease in the price of the good in question, here, payphone calls. The result that APCC and the RBOC Coalition propose is counter-intuitive. Because payphones and wireless technology are substitutes, increasing the default rate for dial-around calls could only be expected further to deflate the demand for payphone calls.[33]

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29 The data for coin calls shows that the elasticity of demand for payphone calls is greater than 1. When the price of a local coin call increased from roughly \$0.35 per call to roughly \$0.50 per call, total revenues from coin calls fell. *See supra* at 4-5.

30 RBOC Coalition Reply at 9.

31 *Id*.

32 APCC Petition at 8; RBOC Coalition Petition at 1.

33 *See generally* Nicholson, *supra* at 81-86.

Finally, APCC cautions the Commission not to assume that its members are irrational.[34] The Commission need make no such assumption. What APCC and the RBOC Coalition appearing to be engaging in is a perfectly rational exit strategy of maximizing short-term revenues while exiting the business. No other strategy makes sense given the experience of the past several years coupled with the requested massive price increases. While the PSPs may wish to maximize their short-term gains, section 276 is not an invitation to the Commission to participate in this death spiral.

The record affords no basis for the Commission to sanction an increase in the default compensation rate. If anything, the Commission could best address the statutory objectives of section 276 by significantly decreasing the default compensation rate.

Perhaps recognizing this, APCC seems to posit that wireless service and payphones are complementary goods. *See* APCC Petition at 4-7; *compare* APCC Reply at 13 *with id.* at 14. This is simply incorrect. If two goods are substitutes, they cannot simultaneously be complements. *See* Nicholson, *supra* at 83-84.

34 APCC Reply at 12.

For the foregoing reasons, the Commission should reject the proposals of APCC and the RBOC Coalition.

Respectfully submitted,

/s/ Michael J. Shortley, III
Michael J. Shortley, III

Attorney for Global Crossing
North America, Inc.

1080 Pittsford-Victor Road
Pittsford, New York 14534
585.255.1429

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Certificate of Service

I hereby certify that, on this 7th day of January, 2004, copies of the foregoing Comments of Global Crossing North America, Inc. were served by first-class mail, postage prepaid, upon:

APCC	Albert H. Kramer Dickstein Shapiro Morin & Oshinsky 2101 L Street, N.W. Washington, D.C. 20037
AT&T Corp.	Paul J. Zidlicky Joseph R. Palmore Sidley Austin Brown & Wood LLP 1501 K Street, N.W. Washington, D.C. 20005
	Mark C. Rosenblum Stephen C. Garavito Teresa Marrero AT&T Corp. Room A229 900 Route 202/206 North Bedminster, NJ 07921
ATX Communications, Inc. Business Telecom, Inc. US LEC Corp.	Richard M. Rindler Kathleen G. Ramsey Danielle C. Burt Swidler Berlin Shereff Friedman, LLP 3000 K Street, N.W. Suite 300 Washington, D.C. 20007
IDT Corporation	Carl Wolf Billek IDT Corporation 520 Broad Street Newark, NJ 07102-3111
Office of the Attorney General of Texas	John Comyn Consumer Protection Division Public Agency Representation Section P.O. Box 12548 Austin, TX 78711-2548

RBOC Coalition	Aaron M. Panner Kellogg, Huber, Hansen, Todd & Evans 1615 M Street, N.W. Washington, D.C. 20036
Sprint Corporation	John E. Benedict H. Richard Juhnke Sprint Corporation 401 9th Street, N.W., Suite 400 Washington, D.C. 20004
Telstar International, Inc.	Hope Halpem Director of Regulatory Affairs Telstar International, Inc. 1 North Broadway White Plains, NY 10601
WorldCom, Inc.	Larry Fenster WorldCom, Inc. 1133 19th Street, N.W. Washington, D.C. 20015

/s/ Michael J. Shortley, III

Michael J. Shortley, III